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such failure to use his senses—the location of the gates whether in a city or in the country, the presence or absence of traffic on the highway, the presence of obstructions or the presence of the gateman are all circumstances which might call for a reliance on the signal without resorting to other precautions; but where the evidence clearly showed that he could have seen the train had he used his senses the question was for the court as a matter of law. This last case seems to meet the situation satisfactorily since it allows no undue relaxation of vigilance but at the same time recognizes the psychological element—the apparent invitation—where it is a controlling motive in causing the traveler to cross. The distinction raised by the dissenting view in the principal case is a technical one but not a real one. It discovers a difference in causes but no difference in effects. Whether the controlling agency of the device is a human being or a contrivance is immaterial so long as it can be shown that the psychological effect may be the same—that the traveler thereby actually becomes "less cautious in looking for the coming of a train."

SPECIFIC PERFORMANCE—MUTUALITY OF REMEDY.—A employed B, an attorney at law, to represent him in certain actions in which he (A) was involved. As consideration for services rendered it was agreed that, on the final determination of the actions, A should turn over to B certain shares of stock. B performed the services, but A refused to carry out his part of the agreement. Bill by B for specific performance. Defense: want of mutuality of remedy. *Held*: Specific performance decreed. *Roche et al.* v. *Madar et al.*, (Wash. 1918) 175 Pac. 314.

Mutuality of remedy continues to raise its head with the persistence of Banquo's ghost. It would seem clear that it has no application to a unilateral contract nor to a bilateral contract fully performed on one side. While it is true that equity would not compel B to perform personal services for A, yet the authorities are practically unanimous that, when B has performed the services, he may compel A to perform. Such a result seems inevitable; for it would be most unjust if A who has already received the promised equivalent for his performance, were permitted to plead that he could not have compelled the performance he has received. Yet the uniformly unsuccessful attempts of parties in such a situation to resist performance indicate confusion in the minds of many lawyers as to the real meaning of mutuality. The final word on the subject has been spoken by Ames. Mutuality in Specific Performance, 3 Col. Law Rev. 1; Lectures on Legal History, 370. Cf. Pomeroy, Contracts (ed. 2) §§ 162-174.

TRESPASSING CHILD—LIABILITY FOR NEGLIGENCE TOWARD.—Defendant left his automobile standing at the proper place near the curb on a street, while he was gone about twenty minutees. On his return he found the plaintiff, a small boy about four and one-half years old, with several other small children, upon the right hand running board of his car, near the curb. They asked for a ride. Defendant refused this and drove them away. He then cranked his car, got in it on the left-hand side, noticing that the plaintiff was then on the left-hand running board. The car had a right-hand drive.